



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,700	09/25/2003	Eduard K. de Jong	SUN040023	9228
24209 7590 01/22/2008 GUNNISON MCKAY & HODGSON, LLP 1900 GARDEN ROAD SUITE 220 MONTEREY, CA 93940			EXAMINER SHAN, APRIL YING	
			ART UNIT	PAPER NUMBER
			2135	
			MAIL DATE	DELIVERY MODE
			01/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/672,700	Applicant(s) DE JONG, EDUARD K.	
	Examiner April Y. Shan	Art Unit 2135	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN SIX MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) the date set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
5. ☒ Applicant's reply has overcome the following rejection(s): Double patenting rejections.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____
- Claim(s) objected to: _____
- Claim(s) rejected: 1-7, 16-22, 31-37 and 46-52.
- Claim(s) withdrawn from consideration: 8-15, 23-30, 38-45 and 53-63.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

DETAILED ACTION

Applicant's amendment to the specification paragraph [0040] is entered.

Applicant's arguments to double patenting rejection are entered and the arguments are persuasive and therefore, the examiner withdraws the double-patenting rejection.

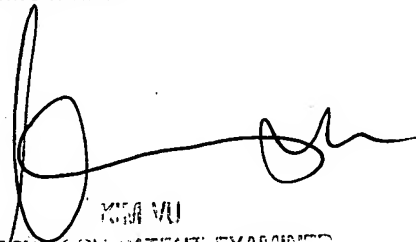
Applicant's remarks were also respectfully considered. The examiner agrees that ASIC is supported in the original disclosure (see remark page 5). But the examiner respectfully disagrees with the Applicant that "...it is well known that if... software repeatedly on processor (**hardware**)..." (see remark pages 5-6). Contrary to the statement offered by the Applicant processor is always referring to hardware, one skilled in the art would understand that a **processor** as defined by the Authoritative Dictionary of IEEE Standards Terms is "**software** that includes the compiling, assembling, translating, and related function for a specific programming language".

Applicant requests withdrawal final restriction requirement. This argument was raised before and was already traversed, see the paragraph which spans pages 2-3 of the Final Office action issued on 10/19/2007.

Applicant also argued that "...one of a plurality of instruction set opcode value encoding schemes" and "at least two non-standard instruction set opcode value encoding schemes" are not disclosed Zeman reference. This argument was raised before and was already traversed, see the paragraph which spans page 7 and 14-16 of the Final Office action issued on 10/19/2007.

Art Unit: 2135

Applicant's remaining arguments are towards the dependent claims being allowable due to dependency. However, because the arguments for the independent claims are traversed, the dependent claims are also not allowable.



KIM VU
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 2135

DEC 18 2007

Garden West Office Plaza, Suite 220
1900 Garden Road
Monterey, CA 93940
(831) 655-0880
(831) 655-0888 (Fax)

**Gunnison, McKay &
Hodgson, L.L.P.**

To: Examiner April Ying Shan From: Forrest Gunnison
Fax: 1-571-273-8300 Pages: 18 Total
Phone: 1-571-270-1014 Date: December 18, 2007
Re: Response to Final Office Action for entry
Your Ref: Serial No. 10/672,700 Our Ref: SUN040023

•AFTER FINAL EXPEDITED PROCEDURE

Applicants: Eduard K. de Jong et al.
Assignee: Sun Microsystems, Inc.
Title: PERMUTATION OF OPCODE VALUES FOR APPLICATION PROGRAM
OBFUSCATION
Serial No.: 10/672,700 Filed: September 25,
2003
Examiner: April Ying Shan Group Art 2135
Unit:
Docket No.: SUN040023

Enclosed is:

- 1) Transmittal letter (2 pages); and
- 2) Amendment (15 pages).

Please
do enter!

AKS
1-15-2008

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify this paper is being facsimile transmitted to the Patent and
Trademark Office (fax No. 571-273-8300) on the date shown below:

Mona Marshall

December 18, 2007

Signature
Mona Marshall

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND
CONFIDENTIAL USE OF THE DESIGNATED RECIPIENT(S) NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-
CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS
MESSAGE IS NOT THE INTENDED RECIPIENT OR AN AGENT RESPONSIBLE FOR DELIVERING IT TO THE
INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR AND
THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY
PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY
TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.